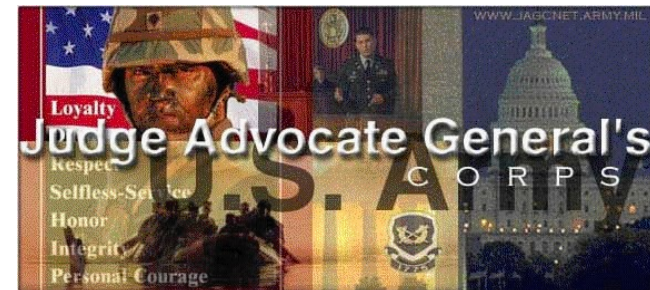


Contract Law for Deploying Forces

- Task: Determine Fiscal Law restrictions and permissions for deployed forces.
- Condition: Given a scenario.
- Standard: IAW International and Contract Law.





Laws Applicable During a Deployment

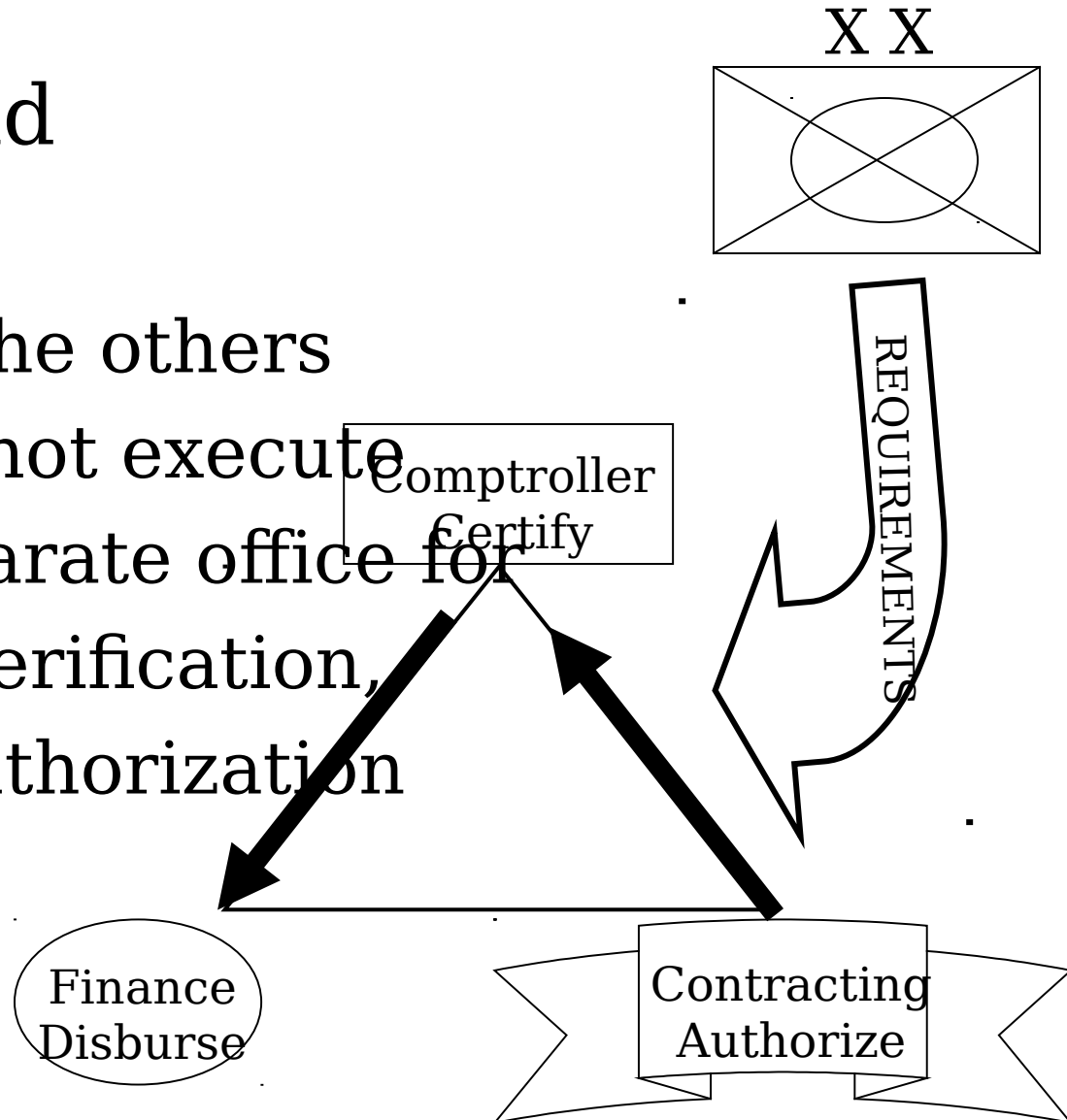
- International Law
 - The Law of War: Combat
 - The Law of War: Occupation
 - International Agreements
- US Contract & Fiscal Law
 - Armed Services Procurement Act
 - Federal Acquisition Regulation (FAR)
 - Fiscal Law (Title 31 US Code, DoD Reg 7000.14-R, DFAS 37-1, DFAS 37-100-FY)
- Wartime Funding
- Wartime Contract Law



Fiscal Support Staff

- The Fiscal Triad

- Each Rely on the others
- One alone cannot execute
- All rely on separate office for requirement verification, validation & authorization





Fiscal Triad Roles

- **Comptroller**
 - Advisor
 - Fund Certification
 - Fund Acquisition
 - Cost Capture/Obligation
 - Management Controls
- **Contractor**
 - Authorized Government Representative on orders
 - Acquire support for Requirements
 - Determine Contract Type
 - Write Statements of Work
 - Seek Competition if necessary
- **Disbursing Officer**
 - Perform Payment
 - Report expenditures
 - Charge Applicable Fund Cite/DSSN

Separate Staff (G4)

- Validate need
- Determine Authorization
- Determine Accountability



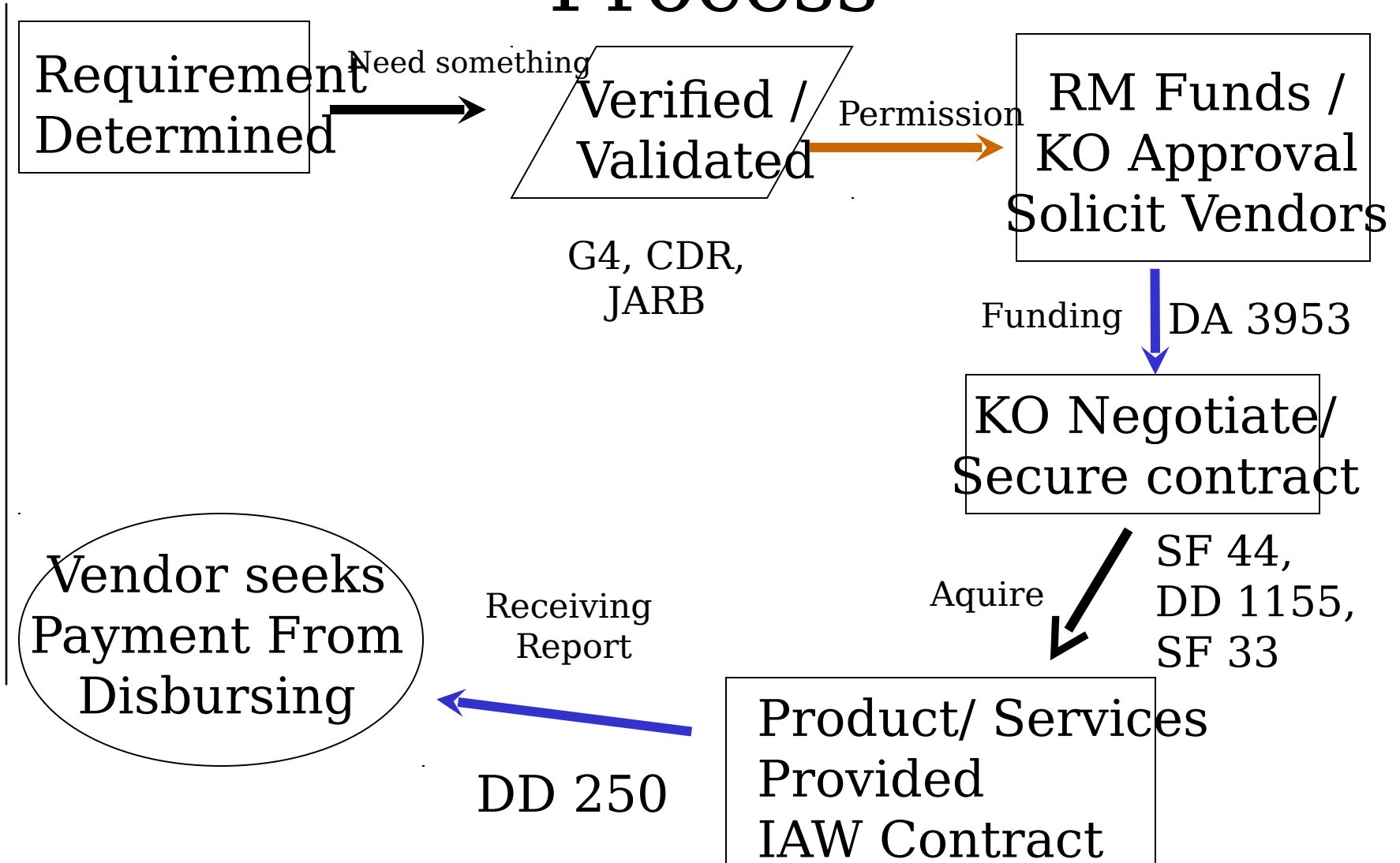
Tactical TRIAD Acquisition Process

Non-Standard

- Initial Steps
 - Field Ordering Officer (FOO) appointed on orders (
 - Member of Subordinate Unit/Staff
 - Trained and certified by KO
 - Orders issued
 - Class A Agent appointed on orders (Mini Disbursing
 - Different Member of Subordinate Unit/Staff
 - Trained and certified by Disbursing Officer
 - Issued Currency & DD 1081 with an account doc by DD 2665
 - Tracks expenditures with SF 44
 - RM certifies funds
 - DA 3953

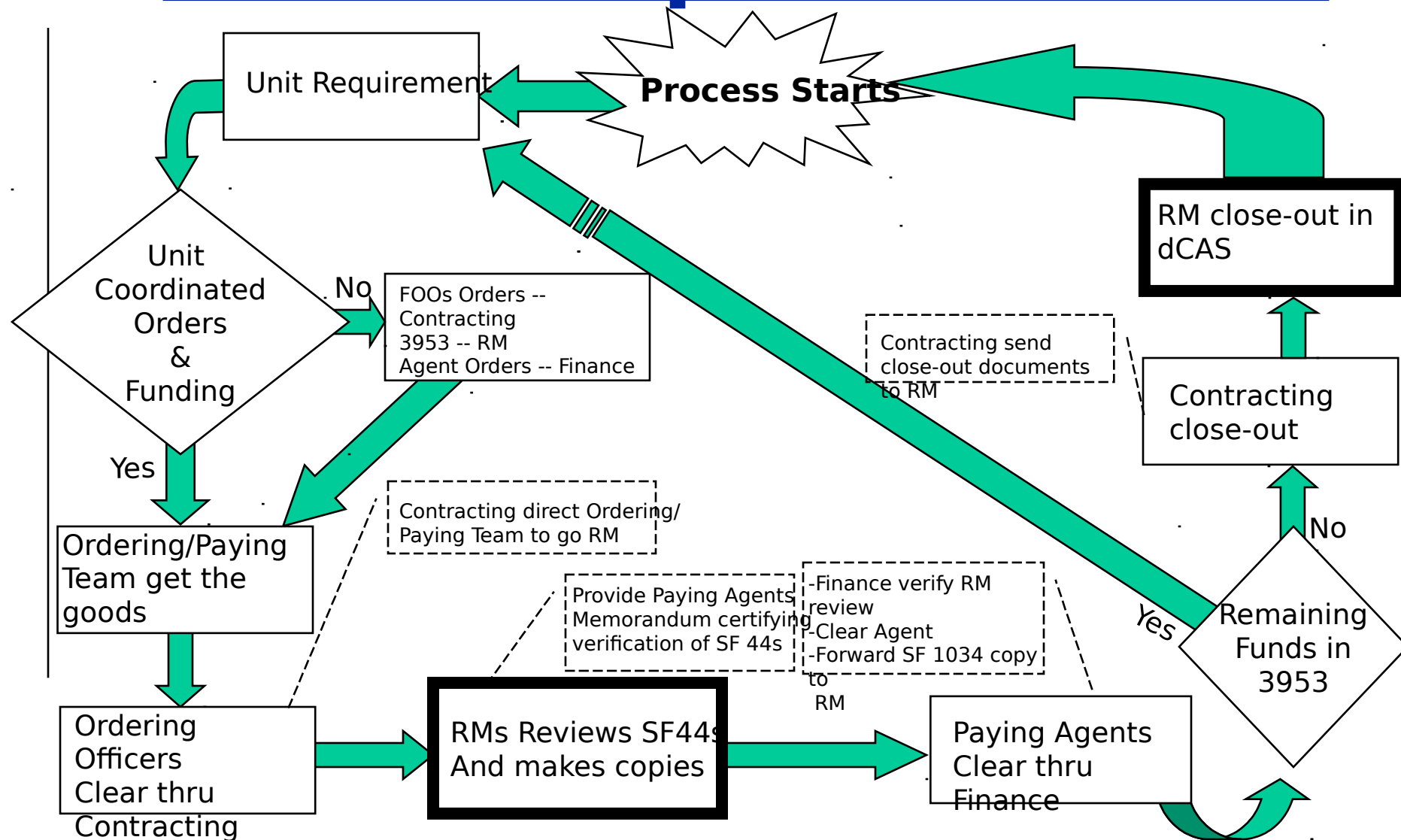


Tactical TRIAD Acquisition Process





Actual Acquisition Flow





Contractor (KO) Specific Issues

Contracting Officer / Ordering Officer:

- Only representatives authorized to bind the government
- Must be trained and appointed in writing
- Are subject to limitations stated by:
 - Dollar amount
 - Item type
 - Purpose
 - Time
- Execute, administer, or terminate contracts.
- Make determinations and findings for irregular procurements



KO forms

- DA 3953, Purchase Request and Commitment
- DD 1155, Purchase Order
- SF 44, Purchase Order-Invoice-Voucher
- SF 26, 30, 33, 1442

Primarily Used for:

Subsistence (fruits, bottled water, sundries

Labor & services

Fuel

Billeting

Class IV (construction materials)

Common items (fans, heaters, etc)



KO Competition Requirements

- US Government must seek competition for its requirements: full and open to all
- Over \$2,500, 45 day lead time
 - 15 days publicized
 - 30 days for bid submission
- Must plan for evaluation and delivery periods
- No automatic exception for deployments!



KO Time & Competition Exceptions:

- Unusual and compelling urgency
 - Limited time
 - Government would be injured by delay
 - National Security (classified)
 - Public Interest
 - Outside CONUS and US Possessions (time only)
 - Deemed by Head Agency (HQDA, DoD)

- Dollar Limits:

< \$500K KO

\$500K - \$10M Advocate

\$10M - \$50M Head K Agency

>\$50M DoD K Executive



Contract Types during Deployments

- Firm Fixed Price (1 point in time requirement)
- Cost Plus Award Fee (LOGCAP & Sustainment)
 - Brown & Root
- Letter (immediate work needed)
- Oral (written documents can't be used or time is crucial)



KO Simplified Procedures Allowed for Deployments

- No Sealed bidding or negotiation warranted with LOGCAP contract and \$250K threshold
 - For supplies, services and construction
 - For certain procurement items (Command decision)
- Only for OCONUS CONOPS
 - Peacekeeping, disaster relief included
 - NBC or terrorist requirement: limits are
 - CONUS micropurchase \$15K
 - CONUS simplified contract \$250K
 - OCONUS simplified contract \$500K



KO Simplified Methods

- **Purchase Orders:** offer to by supplies, services, and construction. Contract occurs when written acceptance received.
 - Forms used:
 - DD 1155
 - SF 44
 - Government Purchase Card
 - Accomodation/Purchase Card Checks
- **Blanket Purchase Agreements (BPA):** offer to repetitively use supplies or services. Advance agreements for future contracts. Sets price, terms, and clauses to rapidly acquire items. Does not mean we will always use the same contractor.
 - Form DD 1155



KO Simplified Methods

- Imprest fund: petty cash fund established by Disbursing officer for cashiers. Funds are specifically identified for certain use.
 - Maximum amount advanced to units/cashiers \$10K
 - Cash used to pay for micropurchases (limit \$2,500) per
 - Used for immature theaters/countries
 - Appropriated funds reimburse Imprest fund
 - Each purchase must be validated and authorized
 - Cashiers cannot be ordering officers: separation of duty

Units may not split requirements in any scenario!!!!



KO Simplified Methods

- Existing contracts: sister services or agencies that meet unit requirements may already exist. KO can amend or use existing contracts
 - Fuel: Army Aviation units used Navy fuel contract at Port of Mombassa, Kenya during Provide Relief
- LOGCAP(Logistics Civil Augmentation Program): ALC has several contracts for support world wide.
 - DynCorp and Brown & Root Services Corporation are two contractors that deploy to support units.
- AFCAP (Air Force Civil Augmentation Program): used primarily for civil engineering
- Acquisition & Cross-Servicing Agreements: DoD has authority to acquire logistic support within itself, NATO countries, UN, and other State Department approved countries.



Fiscal Triad Monitoring

- KO is required to monitor contract performance
- Who really knows:
 - Units requesting service
 - Comptroller monitoring Accrued Expense/Disbursement
 - Disbursing Officer making payment, reviewing performance report



KO & Comptroller Headaches

- Unauthorized commitments: unapproved personnel coordinating for supplies or services without orders or KO warrant
 - KO must ratify all unauthorized agreements
 - < \$10K, unit KO can ratify
 - >\$10 - \$100K, Principle Assistant for Contracting
 - > \$100K, Head of Contracting Activity
 - RM must certify funds if KO ratifies agreement



KO Ratification

KO can ratify unauthorized commitment if:

- Goods or services received
- KO has the authority to obligate the amount of the commitment
- Funds are/where available at the time of incident
 - RM confirms time, purpose, amount
- Price is reasonable and fair



Comptroller Specific Issues

- Determine funding source: annotate correct fund cite
- Certify funds for KO documents
 - DA 3953
 - Class A orders
 - SF 1155
- Commit/Obligate funds supporting procurement requirements
- Advise
- Monitor use of Imprest funds (petty cash)



International Law Regarding Acquisition During Military Operations

- Confiscation- take or destroy enemy public property
 - Commander may take the enemy's supplies, weapons, and equipment without payment
- Seizure- taking private property. If necessary, military forces can take private property without compensation temporarily.
 - Ex: bulldozers, backhoes, trucks, digging equipment, and lumber for foxholes



International Law Regarding Acquisition During Military Operations

- US Forces cannot take property of a government that invites them to defeat an invading Army
- Requisition- taking of personal private property. This may be taken, but must be returned with compensation to the owner
- Prisoners of War-may be used as a source of labor. Must compensate laborers. Cannot use them for military purpose.



International Law Regarding Acquisition During Military Operations

- Civilian Services- cannot force civilians to perform work. May use paid voluntary services for needs associated with occupation, infrastructure, and the health and welfare of the population



Handouts

- Review of Sample
 - SF 44
 - DD 1155
 - Orders



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